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City
Planning
Code

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How to Use the City Planning Code

Zoning Questions About Properties In Residential (R) Zoning Districts

RECODE PROJECT San Francisco Department of City Planning April 1992

Topics in this brochure include:

- *An overview of what the Planning Code and zoning are (pages 2 and 3);*
- *a summary of residential zoning rules (pages 3 - 7); and*
- *an explanation of how to find out what zoning rules apply to you (pages 8 - 11).*

This brochure was prepared by the Department of City Planning as part of our RECODE project -- an effort to make the Planning Code more user-friendly and accessible to the public. Other brochures and handouts you may find helpful are available at the Zoning Information Counter, in Room 502, 450 McAllister St., open 10 - 12 and 1 - 5 weekdays.

The following brochures are available at the Zoning Information Counter. Come in to the Counter and ask for them by name.

- Accessory Uses (Code Reprint)
- Applying for a Variance (Public Info. Flyer #87.2)
- Bernal Heights Development Review Procedures (Public Info. Flyer #88.3)
- Buildable Area for Lots in RH-2, RH-3, RM-1 and RM-2 Districts (Public Info. Flyer #88)
- Environmental Review Process Summary
- Guide to Permit Application and Review Procedures (one version for Residential Districts; one version for Neighborhood Commercial Districts)
- How to Use the City Planning Code: Zoning Questions about properties in Neighborhood Commercial (NC) Zoning Districts
- Legalization of Illegal Dwelling Units (Public Info. Flyer #86.7)
- Policy on Merger of Dwelling Units
- Public Hearing Posting and Mailing Requirements (Public Info. Flyer #86.4)
- Reconstruction of Destroyed Non-conforming Uses (Public Info. Flyer #86.1)
- Usable Open Space Requirements (Public Info. Flyer #89.1)

Zoning Questions About Properties In Residential (R) Zoning Districts

The narrative below may help you understand the basics of the Planning Code as it applies to properties in **Residential (R) Zoning Districts**. The City Planning Department staff at the Zoning Information Counter (Room 502, 450 McAllister St., open from 10 am to noon and 1 pm to 5 pm weekdays) can help answer questions about the Code and the zoning of your property. You may come in person or call us at (415) 558-6377.

The last page of this guide is a questionnaire. We hope you will fill it out and return it to us so we can improve our efforts to serve you.

What is the City Planning Code?

The Planning Code is the City's official set of written **zoning** regulations. It is an ordinance (i.e., a law) which is used and enforced by the Department of City Planning.

Zoning regulates how land is used and developed, generally by governing

- **where** different uses can be located and
- the **size** and **shape** of new and altered buildings.

The Code is divided into a series of ***Articles***, each of which covers specific zoning areas (such as Residential Districts) or zoning topics (such as parking).

The Code can be phone- or mail-ordered from the Book Publishing Company (1-800-537-7881; 201 Westlake Avenue North, Seattle, WA 98109) or purchased at Stacey's Bookstore (581 Market Street, SF), America's Legal and Professional Bookstore (360 Golden Gate Ave., SF) and Builders' Booksource (300 De Haro Street, SF and 1817 Fourth St., Berkeley). It is also available for use at the Zoning Information Counter, the City Hall Law Library and the Documents Department at the Main Library. Photocopies of temporary and interim zoning controls that have not yet been published in the Code can be picked up from the Zoning Information Counter.

At this time, zoning regulations in the Planning Code that affect most Residential (R) Districts are supplemented by rules commonly known as the NCIC (Neighborhood Conservation Interim Controls). These rules apply in (most) R districts *IN ADDITION TO ALL PLANNING CODE RULES*. The NCIC rules are explained in a handout titled ***"APPLICATION PACKET,"*** available at the Zoning Counter. Basically, the NCIC promote averaging the heights and depths of immediately neighboring homes to determine how tall and deep to design your building. Eventually, the NCIC will be replaced with new regulations which will be published in the Planning Code.

Why do we have Zoning?

Zoning is intended to guide the arrangement of the physical aspects of our built environment in ways that benefit our community. Virtually every large city in the country is regulated by zoning. In San

Francisco, zoning finds its origins in the 1898 City Charter which included a provision preventing slaughter houses from locating near residential buildings. Today, San Francisco's zoning attempts to respond to and benefit the many competing interests of a largely built-out, densely populated and economically, culturally and socially sophisticated urban area.

How does zoning work?

The City is divided into over sixty zoning districts, all of which are shown in the City's official set of Zoning Maps (also available for purchase and use as described above). Each property in the City falls into one or more of these zoning districts, and each zoning district has its own set of rules. Nine of these districts (excluding Mission Bay and South of Market) are zoned principally for residential use: RH-1, RH-1(D), RH-1(S), RH-2, RH-3, RM-1, RM-2, RM-3, and RM-4. Some uses other than residential, such as schools and churches, are permitted by conditional use approval, which means a public hearing before the City Planning Commission will be held. There are also several residential overlay districts, known as ***Special Use Districts*** (SUDs).

There are many different categories of zoning rules. The most common categories that apply in Residential (R) Districts are listed and explained below. Each explanation is followed by a list of the **primary** Code Sections that deal with the category.

*There is an **INDEX** at the back of volume II of the Planning Code which should help you find these categories and many of the rules that apply to your property and/or project. We are in the process of updating the index to make it more useful. After using the index and the Code, remember to look through the **APPLICATION PACKET** as well.*

Land Use

Land use refers to the activities that take place on a lot. There are nine broad **use categories** in the portions of the Planning Code dealing with Residential (R) Zoning Districts. These include "Dwellings" (i.e., housing), "Institutions," and "Community Facilities." Within each broad category there are specific uses. These include, for instance, "one-family dwelling," two-family dwelling," and "three-family dwelling."

Land ***use tables*** in the Code list all of the uses in the various districts. In the residential tables, ***which are printed in Code Sections 209.1 through 209.9***,

P = a permitted use,
C = a conditional use (that is, requiring approval by the City Planning Commission after a public hearing),
(blank space) = a use that is not permitted,
NA = not applicable.

For example, in the chart below, in an RH-1 zoning district, a single-family house would be permitted, a school would require conditional use approval and commercial establishments would not be permitted.

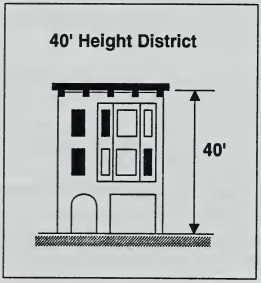
RH-1	RH-2	RH-3	Section 209
P	P	P	SEC. 209.1. DWELLINGS (a) One-family dwelling
C	C	C	SEC. 209.3. INSTITUTIONS (h) Secondary school
			SEC. 209.8 COMMERCIAL ESTABLISHMENTS

Some uses can also be considered "temporary" or "accessory" to another use (see especially Sections 204, 204.1, 204.2, 204.4, 204.5 and 205).

To find out whether the **existing use on the property** conforms to official City records, you can order an ***"3-R" report*** (for residential properties) and/or a ***building permit history*** and ***Certificates of Final Completion*** (CFCs)(for all properties) from the Bureau of Building Inspection (Room 305, 450 McAllister Street).

Height

Height refers to the distance a building rises from the ground. Each property is in a height district. The rules for the height district, the zoning district rules and the NCIC rules determine the maximum height permitted. For instance, for a building in an RH-2 zoning district and a 40-foot height district, the height district rules state that the maximum height is 40 feet; the zoning district rules state that in some circumstances the front of a building cannot be higher than 30 feet; and the NCIC rules describe a review and approval process that depends on the height of adjacent properties. In all districts there are certain **exemptions** (such as chimneys, parapets, elevator and stair enclosures to the roof) which can exceed the height limits. The Code and NCIC also explain how height is measured. (See especially Code Sections 102.12, 250-252, 253.1, 260 and 261 and the "Application Packet".)

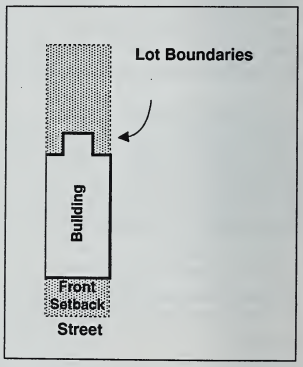


Parking

Parking refers to the number of parking spaces (and space dimensions) required on the property. The required parking is determined by the use on the property, and in some cases by the zoning district and the amount of space occupied by the use. In all purely Residential districts, one parking space is required for each living unit added. Another important parking rule is that once required parking is provided, it cannot be taken away unless you have been granted a variance. (See especially Code Sections 150-151, 153-157, 159-161 and 204.5.)

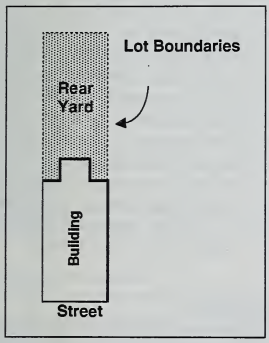
Front Setback

Front setback refers to the area in the front of a lot that is required to be kept open. In some cases, front setbacks are drawn on ***Block Books*** kept at the Zoning Information Counter (these are called "legislated setbacks"). In other cases, they are determined by averaging the front setbacks on adjacent lots. (See especially Code Sections 130-132.)



Rear Yard Setback or Rear Yard

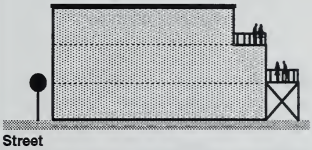
Rear yard setback, or simply rear yard, refers to the area, usually in the back of a lot (i.e., the back yard), where you cannot build any structures. In residential districts, the rear yard is required to be kept open on every story, not just on the ground floor. In all districts there are certain exceptions called "**permitted obstructions**" (such as small garden structures) which may be built in parts of the rear yard. As with height, rear yard rules are spelled out both in the Planning Code and the NCIC. (See especially Code Sections 130, 134, 136 and the "Application Packet.")



Usable Open Space

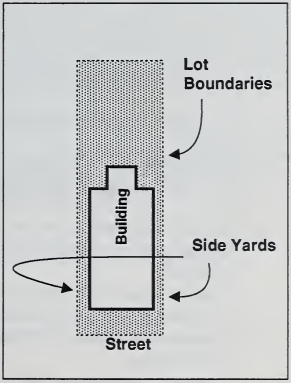
Usable open space refers to the area on a lot that is required to be kept open for outdoor use. While **usable open space** may be provided in the **rear yard**, these are two separate requirements. Open space may be provided in rear yards, balconies, decks, and/or court yards. (See especially Code Sections 135-135.3.)

Decks as Open Space



Side Yards

Side yards refer to the area on the sides of a lot that are required to be kept open. Side yards are only required in RH-1(D) (single-family detached house) districts. (See especially Code Section 133.)



Density

In purely Residential districts, density refers to the maximum number of residential units (or bedrooms when discussing group housing) permitted on a property. (A residential unit--or dwelling unit--is a living space which includes a kitchen.) For instance, the density in an RM-1 zoning district is 1 unit for each 800 square feet of lot area. This would mean that you could develop three units on a lot of 2500 square feet (2500 divided by 800 equals three and one-eighth. Fractions are rounded down in residential districts). (See especially Code Sections 207, 207.1, and 209.1.)

Priority Policies

Priority policies refer to a voter initiative passed in 1986 (Proposition M, now Code Section 101.1) which requires that many applications be reviewed in the context of eight citywide priority policies. These policies are intended to preserve and enhance San Francisco's character, housing, businesses and services. In summary, the policies are:

1) *to enhance neighborhood-serving retail uses,*
2) *to protect neighborhood character,*
3) *to increase the supply of affordable housing,*
4) *to protect Muni transit service and neighborhood streets and parking from commuter traffic,*
5) *to protect industrial and service jobs from displacement by office development,*
6) *to prepare for earthquakes to the greatest extent possible,*
7) *to preserve landmarks and historic buildings, and*
8) *to protect parks and open space and their access to views and sunlight.*

The City Master Plan

The City has a Master Plan, which is required by state law, to guide future development. The Master Plan consists of broad policy statements which are implemented through the more specific zoning regulations in the City Planning Code and other programs. All proposals are evaluated for conformance with Master Plan policies. (The Master Plan can be purchased or used at the Planning Department.)

Design Review, Modification of Front Facades and Landscaping

The exterior design of buildings is reviewed by planning staff for compliance with the Department's "**Residential Design Guidelines**". Landmarks or other architecturally or historically significant buildings require design review by the Landmarks Preservation Advisory Board. Some proposals also require that street trees be planted in front of the property and that facades be designed to complement the prevailing scale of neighboring buildings. (See especially Code Sections 141-145 and the separate publication, "Residential Design Guidelines," available at the Zoning Counter.)

Demolition

Demolition refers to the complete or partial dismantling of an existing building. The precise definition of demolition as it applies to Residential Districts is stated in the "APPLICATION PACKET." The demolition of single-family homes is generally prohibited in RH-2 districts unless the building is replaced with a single-family house. Demolitions of landmark and other architecturally and historically significant buildings are also controlled. (See especially Code Sections 101.1, 1006, 1007 and the separate publication, "Application Packet," available at the Zoning Counter.)

Lot Size

Lot size refers to the area of a lot. New lots have to meet minimum standards for area and width . (See especially Section 121.)

Nonconforming Uses and Noncomplying Structures

A nonconforming use is a land use that was permitted under all codes in effect at the time the use was established but would not be permitted today. For instance, an apartment building with two flats was built in 1907, prior to the adoption of zoning controls. Today the lot may be zoned RH-1, which would only permit one flat per lot. But because the building was constructed legally in 1907, it remains legal today. Many nonconforming uses in Residential Districts are assigned **termination dates**, after which time the uses must be replaced with uses permitted today. For instance, an industrial use in a residential zoning district might be assigned a termination date of 1998. By 1998 the use of the property would have to become a use permitted in the zoning district. Nonconforming uses in residential districts cannot be expanded in area or intensity of use.

A noncomplying structure is a structure that was built in a way that was permitted under the codes in effect at the time of construction but would not be permitted today. For example, a cottage was built in the back of a lot in 1910, before there were any zoning controls. Today, this property is zoned RH-1, where all new buildings must leave room for at least a 25% rear yard. This existing building is a noncomplying structure because it covers the rear yard. The noncomplying portions of structures cannot be enlarged.

If noncomplying structures or nonconforming uses are destroyed by an Act of God, they can be rebuilt and reestablished. If they are demolished or abandoned voluntarily by the owner or tenant, they can only be rebuilt and reused in ways which conform to today's zoning roles. (See especially Code Sections 180-188.)

Landmarks and Historic Districts

Certain buildings which are architecturally and/or historically significant have been designated as **landmarks**. Similarly, certain parts of some neighborhoods in the City have been designated as **historic districts**. When changes are proposed to the exterior of landmarks or buildings in historic districts, the proposals must be reviewed by the **Landmarks Preservation Advisory Board**. The Landmarks Board sometimes also reviews proposed changes to buildings which have not been formally designated but which have been identified as being architecturally or historically important. (See especially Article 10.)

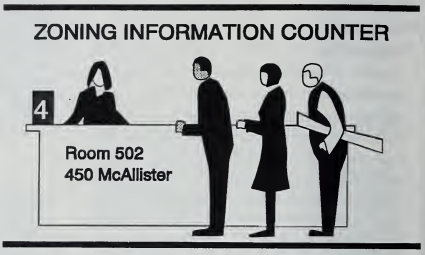
How do I find out what zoning rules apply?

Typically, there are two ways to begin. One is for people who already have a particular property in mind. The other applies to people who have a proposed use in mind (such as a single-family house or an apartment building) but haven't chosen a location.

When you already have a property in mind,

Call or visit the ***Zoning Information Counter*** with the property's address or Assessor's Block and Lot number(s) and ask

- what ***zoning district*** the property is in,
- what the ***lot size*** is,
- what ***height and bulk district*** the property is in,



- whether the property is designated as ***historically or architecturally significant,***
- whether or not any site-specific, ***special regulations*** apply and
- whether or not the property has any recorded Planning or Building ***Code violations.***

Next you can use the Planning Code to find out what rules apply in your zoning district. Generally, these rules apply to what you are planning to do with the property and not with what has been legally developed on the property in the past.

To find out what rules apply in your zoning district:

- Start with the Residential Use Tables in Sections 209.1 through 209.9. These will tell you what ***uses*** are permitted or allowed by conditional use approval in the zoning district. (See sample table on page 3.)
- If you are planning to change the shape or look of the building or to construct a new building on the lot, you will also need to know all of the zoning rules that apply in addition to use. For the most part, these rules will include the categories explained earlier (i.e. rear yard, height, parking, etc.). At this time, the best summary of the most important rules is provided in a table in the "APPLICATION PACKET."
- Check with the Zoning Information Counter staff to review your understanding of these rules.

When you have a specific use in mind, (such as a two-family house) but have not chosen a location,
call or visit the ***Zoning Information Counter*** and

- *explain* what you would like to do and
- *ask* what districts would permit that use.
- Next you can look through the Zoning Maps to find out where those districts are.
- Once you narrow down your choices for a location, you can ask the questions listed under **"When you already have a property in mind"** to find out what rules would apply.

EXAMPLE: ***You have a vacant lot and want to know what you can build there.***

You have a vacant lot at 261 Flournoy Street. The Zoning Information Counter tells you the lot is ***zoned*** RH-1, that the ***height district*** is 40 feet, that the lot size is 2500 square feet, that there are no ***planning or building code violations or special restrictions or regulations listed for the property.***

You then go to the residential use tables in Sections 209.1 through 209.9. Looking down the RH-1 column, you find that a single-family house and some types of residential care facilities and child-care facilities are permitted. More than one house or apartment on the lot and commercial uses are not permitted.

Based on this information, you decide you would like to build a single-family house on the lot. The Zoning Information Counter staff tell you the following zoning categories will apply to your proposal: lot size, usable open space, dwelling unit exposure, parking, height, rear yard, front setback, design and street trees.

To find out where you can build on the lot and how large the building can be, you can

1) look up each of these categories in the index and refer to the Sections listed and
2) read the summary table in the APPLICATION PACKET.

Double-check your understanding of these rules with the Zoning Counter staff and ask if there are any other rules that you might have missed.

If something I am planning to do is not permitted under the Planning Code, are there any alternatives?

Sometimes.

Many quantitative (that is, numerical) standards in the Planning Code (for instance, the size of a rear yard and the number of parking spaces required) are subject to a variance procedure. A ***variance*** is an exception to a quantitative rule that a property owner may ask for if certain conditions are met. The rules for variances are spelled out in Code Section 305.

When a use is called a ***conditional use***, this means that the City Planning Commission holds a hearing to decide whether or not the use would be permitted. The rules for conditional uses are spelled out in Code Section 303. When a use is not permitted, there are no exceptions. Only a change in the law

could change the regulation. (A ***zoning map amendment*** would change the zoning district, height or bulk district or legislated setback. A ***zoning text amendment*** would change the written regulations in the Planning Code.) Any zoning amendments have to be approved by both the City Planning Commission and Board of Supervisors.

Applications for these exceptions and procedures are available at the Zoning Information Counter.

If something I am planning to do is permitted under the Planning Code, am I assured of approval by the City?

No. Under the City Charter, any person or agency may request that any permit application (except for signs) reviewed by the Planning Department also be considered by City Planning Commission in a public hearing. This request is known as ***Discretionary Review (DR)***. The Commission can grant the request for Discretionary Review or deny it. If they grant it, they then approve or disapprove the proposed project. If they approve it, they can also request modifications of the project or attach "Conditions of Approval". Typical reasons for modification or disapproval include "quality of life" issues such as neighborhood character, which is one of the priority policies explained on page 6. Also, after City Planning approval, every proposal has to meet the requirements of all other applicable Codes, such as the Building Code and Fire Code. Every permit and licence issued by the City can also be appealed to the Board of Permit Appeals within 15 days of the date the permit or license is issued. The Board can uphold the permit or rescind it.

Are there any other regulations the Planning Department implements?

Yes. The Office of Environmental Review within the Planning Department conducts environmental evaluations as required by the California Environmental Quality Act (CEQA). These evaluations generally result in the issuance of an ***exemption***, a ***negative declaration*** or ***environmental impact report*** (EIR). Small projects, such as the construction of a single-family home, are exempt. Rules governing CEQA reviews are set out in this state law itself and in Chapter 31 of the City's Administrative Code (not the Planning Code).

What is a Planning Code violation and how does it affect any development proposals I might have?

Every property in the City must conform to **every** requirement in the Planning Code. Any requirement that is not met is a ***violation***. Violations that have been identified by the City are recorded on a list kept jointly by the Bureau of Building Inspection and the Department of City Planning. (There are also some complaints on this list which have not been verified.) To find out if your property or a property you are interested in buying or leasing is on this list, ask the Zoning Information Counter staff. If the property is listed, there will be some indication of what the violation is (for instance, an illegal unit). If it is not listed, this does not guarantee the property is violation-free. It indicates the City has not identified a violation there in the past. Another indicator of legality is a ***3-R Report*** which can be ordered for a fee through the Building Department. The 3-R Report shows how many housing units are legal for each property in Residential zoning districts.

If the property is listed as having a violation, no permit applications for the property can be issued until the violation is cleared. Identified violations are also subject to legal action by the City Attorney. Typically, the way to clear a violation is to file a permit application to remove the violation and replace it with a legal use or feature. Once the permit has been issued and the work has been completed and inspected, the City will remove the property from its violation list.

Once I determine what the Planning Code rules are, where do I go from from there?

First, determine what types of reviews, approvals, permits and/or licenses you would need for your project. If you are doing construction work (even some small interior renovations such as relocating a sink), you would probably need a:

- ***building permit*** and perhaps a
- ***plumbing and\or electrical permit.*** Check with the Bureau of Building Inspection (BBI) if you are not sure.

BBI will determine what other departments (such as City Planning) need to review your building permit applications.

San Francisco Department of City Planning

Evaluation and Questionnaire:
How to Use the City Planning Code for Zoning Questions About Properties in Residential (R) Districts

This "How to Use the City Planning Code" guide is the first in a series of products we will be making available as part of the Planning Department's RECODE project – an effort to make the Planning Code more understandable and user-friendly. Another product we are working on is a more comprehensive index.

We would like your ideas to improve this guide and generally in making the Code more accessible and understandable. Please be as specific as possible in filling out this questionnaire and feel free to attach any additional suggestions and ideas on separate sheets. We value your comments and appreciate your help.

Please return the survey to the Zoning Information Counter (Room 502, 450 McAllister Street, mail it to RECODE, Department of City Planning, 450 McAllister St., Room 604, San Francisco, CA 94102 or FAX it to RECODE at 558-6409 by May 30. If you have any questions about the guide, questionnaire or RECODE project, please call Inge Horton at 558-6279 or Mary Gallagher at 558-6388.

1. Did the guide help you understand zoning? Yes No *(if not, why not)*

2. Did the guide help you find the Code information you needed? Yes No *(if not, why not)*

3. Which parts of the guide were the most helpful to you?

4. How could this guide be improved?

5. We are in the process of updating the **Code index** to make it more useful. What terms do you think should be included in the index?

6. Do you have any other suggestions for the RECODE project?

Optional information:

Name:

Address:

City:

Phone:

Are you involved in planning and zoning as:

Architect/Designer/Engineer

Developer/Builder

Member of a Neighborhood Group

Realtor/Broker

Appraiser

Lawyer

Property Owner

Other *(please specify)*

How to Use the City Planning Code

Guide to Permit Application and Review Procedures in Residential (R) Zoning Districts

RECODE PROJECT San Francisco Department of City Planning April 1992

As part of our effort to communicate better with the public and make permit review understandable, the Department of City Planning (Planning Department) has prepared this guide to show the basic steps involved in reviewing applications. The most frequently used procedures are presented in a simplified version. Other procedures which are not described here are listed at the end of this guide.

The last page of this guide is a questionnaire. We hope you will fill it out and return it to us so that we can improve our efforts to serve you.

CASE 1

Building Permit Application not requiring City Planning Review.

Examples:

- *Remodeling a kitchen and moving the sink two feet to the side.*
- *Reroofing a residential building.*

Step 1: The applicant requests information at Information Counter of the Bureau of Building Inspection and Zoning Information Counter.

Step 2: The applicant files the application including all required material and a fee at the Central Permit Bureau. The application is reviewed by the Bureau of Building Inspection and other City Agencies as necessary.

Step 3: The Bureau of Building Inspection issues the permit, disapproves or cancels the application. In case of a dispute about a Building Code regulation, the applicant can ask for a ruling from the Board of Examiners.

Step 4: Any person can appeal the permit or disapproved application to the Board of Permit Appeals within 15 days of the action.

CASE 2

Building Permit Application in most residential districts with a height limit of 40 feet, requiring City Planning review but no special City Planning permit.

Examples:-

- *Addition of a bay window in the front wall or a dormer in a roof (Tier I).*
- *New construction of a single-family house which is not larger than the average of the two adjacent buildings (Tier I).*
- *Addition of one story to a two-story house surrounded by two-story houses (Tier II).*

Step 1: The applicant requests information at Information counter of the Bureau of Building Inspection and Zoning Information Counter.

Step 2: The applicant notifies the property owners and tenants of directly abutting properties to the sides, in rear and across the street of the project site. If a neighbor expresses concern about certain aspects of the proposed building, the applicant should consider modification of the plans to avoid the neighbor later requesting discretionary review.

Step 3: The applicant files the permit application at the Central Permit Bureau and pays a fee. The application is routed to the Planning Department for review.

Step 4: The Planning Department determines the zoning and special conditions as applicable, completeness of application, and reviews the application for code compliance including design review. The planner may request revisions of the project or additional information if necessary.

For Tier I projects, the Planning Department can approve or disapprove the application no sooner than 15 days after the preapplication notice.

For Tier II projects, the Planning Department requests the applicant to mail Notices of Code Compliance to all property owners and tenants on the same block and on the block face across the street. After a waiting period of 30 days and not receiving a request for Discretionary Review, the Planning Department approves the application. If Discretionary Review is requested, see Case 3. Tier III cases require the same notice procedures as Tier II and are referred to the Planning Commission for review.

Step 5: The Planning Department routes the permit application to other City agencies for review.

Step 6: The Bureau of Building Inspection issues the permit, disapproves or cancels the application.

Step 7: Any person can appeal the permit or disapproved application to Board of Permit Appeals within 15 days of the action.

CASE 3

Discretionary Review Request of a pending building permit application. Discretionary Review can be requested by a Planning Commissioner, staff, neighbor, interested person, community group etc. if the DR requestor believes the project requires review by the City Planning Commission. In general, the request is to modify the proposed project in order to avoid certain undesirable impacts. An application packet to request discretionary review is available at the Zoning Information Counter.

Examples:

- *Adding a room in the rear of a house obstructs access of light and sun to the adjacent building.*
- *Addition of a third story to an existing two-story house in an area with only two-story houses. The additional story is out of character with the neighborhood.*

Discretionary review is generally preceded by steps 1 to 4 of case 2.

Step 1: A concerned neighbor or community group files a request for discretionary review and pays a fee at the Zoning Counter. The requestor notifies the abutting property owners and any other parties who might be interested.

Step 2: After receipt of a request for discretionary review, the Planning Department reviews the request and encourages negotiations between the requestor and the applicant. If the negotiations are not successful, a public hearing before the City Planning Commission is scheduled.

Step 3: At the hearing, the Planning Commission first decides whether or not to exercise discretionary review of the case based on its merits.

If the Planning Commission denies the discretionary review request, the Planning Department approves or disapproves the permit application.

If the Planning Commission decides that the request has some merit, the case generally will be decided on the same day. Sometimes cases are continued to future Commission hearings to allow time for problem resolution between the parties involved.

Step 4: After the City Planning Commission makes a decision, the Planning Department approves, approves with conditions or disapproves the permit application. (The decision of the City Planning Commission cannot be appealed until the permit is issued or denied by the Bureau of Building Inspection.)

Step 5: The Planning Department routes the permit application to other City agencies for review.

Step 6: The Bureau of Building Inspection issues the permit, disapproves or cancels the application.

Step 7: Any person can appeal the permit or disapproved application to Board of Permit Appeals within 15 days of the action by the Bureau of Building Inspection.

CASE 4

Variance Application

Examples:

- *The applicant wants to build a deck on a steeply sloping lot to provide some outdoor space accessible from the living room. The Code does not allow a deck at the proposed height, therefore a variance is sought*
- *The applicant wants to expand his house which was built in the rear of the lot before the zoning regulations were established.*

The Zoning Administrator may grant variances from the strict application of quantitative (i.e. numerical) standards in the Planning Code to overcome practical difficulties or unnecessary hardship. Sections 305 and 306 explain the purpose, procedures and criteria for variances. When a proposed project does not meet some quantitative Code standards (except for height limits) the applicant may seek and justify a variance from the quantitative Code standards. An application packet for variances is available at the Zoning Information Counter.

An approved building permit is necessary to build the proposed project. The applicant may apply for the variance before or after the building permit application is made. However, the building permit application cannot be approved until the variance is granted.

Step 1: The applicant requests inormation at the Zoning Information Counter. For large projects, the applicant is advised to set up a project review meeting to discuss the preliminary plans with staff who will be involved in the review of the project.

Step 2: The applicant files a variance application including all required material and a fee at the Planning Department. The applicant must provide material justifying the variance.

Step 3: Staff researches the application and schedules a date for a public hearing, which is generally held on the 4th Wednesday of each month. Twenty days prior to the hearing, the subject site is posted with a sign announcing the hearing. Ten days prior to the hearing notices are mailed to all property owners within a 300 foot radius of the subject property.

Step 4: The Zoning Administrator holds the hearing and generally announces a tentative decision.

Step 5: A final decision letter is mailed to the applicant and interested parties. There is a ten day appeal period during which the decision by the Zoning Administrator can be appealed to the Board of Permit Appeals.

Step 6: After the expiration of the appeal period, all pending building permits that comply with the variance decision are approved by City Planning and are routed for further review to other City agencies. If no building permit was previously filed, there is a three year period for filing building permits relating to the variance.

Step 7: The Bureau of Building Inspection issues the permit or denies the application.

Step 8: Any person can appeal the permit or disapproved application to Board of Permit Appeals within 15 days of the action.

CASE 5

Conditional Use

Certain types of uses are only permitted with a conditional use authorization by the City Planning Commission after a public hearing has been held. Section 303 explains the purposes, procedures and criteria for conditional uses. Additional criteria for conditional use authorization are explained in other applicable sections of the Planning Code and in the Master Plan. A conditional use application packet is available at the Zoning Information Counter.

Examples:

- *A residential building with five stories of apartments over a garage in a high density residential district with a mapped height of 65 feet. (Residential buildings exceeding 40 feet in height require conditional use.)*
- *The new construction or alteration of a church or school in a residential district. (Institutional buildings such as churches or schools require a conditional use in residential districts.)*

An approved building permit is necessary to build the proposed project. The applicant may apply for conditional use before or after applying for the building permit. However, the building permit application cannot be approved until the conditional use is authorized.

Step 1: The applicant requests information at the Zoning Information Counter. For large projects, the applicant is advised to set up a project review meeting to discuss the preliminary plans with staff who will be involved in the review of the project.

Step 2: The applicant files a conditional use application including all required material and a fee at the Planning Department.

Step 3: After receipt of a conditional use application, staff researches the case, develops a preliminary staff recommendation and sets a date for a public hearing by the City Planning Commission. Twenty days prior to the hearing, the subject site is posted and a newspaper notice is published. Ten days prior to the hearing, mailed notices are sent to all property owners within a 300 foot radius of the subject property. One week prior to the hearing, a case report and draft motion is sent to the City Planning Commission and made available to the public.

Step 4: The City Planning Commission holds one or several public hearings and approves with or without conditions or disapproves the request for conditional use authorization.

Step 5: The Commission's action may be appealed within 30 days to the Board of Supervisors. An appeal must be signed by persons owning 20% of all properties within 300 feet of the subject property.

Step 6: If no appeal is received, building permit applications relating to the specific authorization can be approved by City Planning within three years from the date of approval (unless the conditions include a different time limitation). Subsequently, the Planning Department routes the permit application(s) to other City agencies for review.

Step 7: The Bureau of Building Inspection issues the building permit(s) or disapproves or cancels the application(s).

Step 8: Any person can appeal the building permit or disapproved application to Board of Permit Appeals within 15 days of the date of action of the Bureau of Building Inspection.

Other procedures which are not described in this guide, include but are not limited to:

- Environmental Evaluation (California Environmental Quality Act and San Francisco Administrative Code Chapter 31)
- Planned Unit Development (Planning Code Sec. 304)
- Certificate of Appropriateness (Planning Code Sec. 1006)
- Amendment to the Zoning Map (Reclassification) (Planning Code Sec. 302)
- Amendment to the Planning Code Text (Planning Code Sec. 302)
- Coastal Zone Permit (Planning Code Sec. 330-330.16)
- Shadow Analysis (Planning Code Sec. 295)
- Review of Downtown Permits (Planning Code Sec. 309)
- Annual Limit of Office Development (Planning Code Sec. 320-325)
- Transfer of Development Right (Planning Code Sec. 128)

For the precise text of the legislation about the procedures and those described in more detail above please refer to applicable Code sections or inquire at the Zoning Information Counter. For most of these procedures, application packets are available.

San Francisco Department of City Planning

Evaluation and Questionnaire:
Guide to Permit Prodedures in Residential Districts

This guide on Permit Application and Review Procedures is the first in a series of products we will be making available as part of the Planning Department's RECODE project -- an effort to make the Planning Code more understandable and user-friendly. Another product we are working on is a more comprehensive index.

We would like your ideas to improve this guide and generally in making the Code more accessible and understandable. Please be as specific as possible in filling out this questionnaire and feel free to attach any additional suggestions and ideas on separate sheets. We value your comments and appreciate your help.

Please return the survey to the Zoning Information Counter (Room 502, 450 McAllister Street, mail it to RECODE, Department of City Planning, 450 McAllister St., Room 604, San Francisco, CA 94102 or FAX it to RECODE at 558-6409 by May 30. If you have any questions about the guide, questionnaire or RECODE project, please call Inge Horton at 558-6279 or Mary Gallagher at 558-6388.

1. Did the guide help you understand procedures? Yes No *(if not, why not)*

2. Which parts of the guide were the most helpful to you?

3. How could this guide be improved?

4. We are in the process of updating the **Code index** to make it more useful. What terms do you think should be included in the index?

5. Do you have any other suggestions for the RECODE project?

Optional information:

Name:

Address:

City:

Phone:

Are you involved in planning and zoning as:

Architect/Designer/Engineer	Appraiser
Developer/Builder	Lawyer
Member of a Neighborhood Group	Property Owner
Realtor/Broker	Other *(please specify)*

How to Use the City Planning Code

Zoning Questions About Properties In Neighborhood Commercial (NC) Zoning Districts

RECODE PROJECT San Francisco Department of City Planning April 1992

Topics in this brochure include:

- *An overview of what the planning code and zoning are (page 2);*
- *a summary of neighborhood commercial zoning rules (pages 3-7); and*
- *an explanation of how to find out what zoning rules apply to you (pages 7-12).*

■ NEIGHBORHOOD COMMERCIAL DISTRICTS

This brochure was prepared by the Department of City Planning as part of our RECODE project - -an effort to make the Planning Code more user-friendly and accessible to the public. Other brochures and handouts you may find helpful are available at the Zoning Information Counter, in Room 502, 450 McAllister St., open 10 - 12 and 1 - 5 weekdays.

The following brochures are available at the Zoning Information Counter. Come in to the Counter and ask for them by name.

- Accessory Uses (Code Reprint)
- Applying for a Variance (Public Info. Flyer #87.2)
- Bernal Heights Development Review Procedures (Public Info. Flyer #88.3)
- Buildable Area for Lots in RH-2, RH-3, RM-1 and RM-2 Districts (Public Info. Flyer #88)
- Environmental Review Process Summary
- Guide to Permit Application and Review Procedures (one version for Residential Districts; one version for Neighborhood Commercial Districts)
- How to Use the City Planning Code: Zoning Questions About Properties in Residential (R) Districts
- Legalization of Illegal Dwelling Units (Public Info. Flyer #86.7)
- Policy on Merger of Dwelling Units
- Public Hearing Posting and Mailing Requirements (Public Info. Flyer #86.4)
- Reconstruction of Destroyed Non-conforming Uses (Public Info. Flyer #86.1)
- Usable Open Space Requirements (Public Info. Flyer #89.1)

Zoning Questions About Properties In Neighborhood Commercial (NC) Zoning Districts

The narrative below may help you understand the basics of the Planning Code as it applies to properties in **Neighborhood Commercial (NC) Zoning Districts**. The City Planning Department staff at the Zoning Information Counter (Room 502, 450 McAllister St., open from 10 am to noon and 1 pm to 5 pm weekdays) can help answer questions about the Code and the zoning of your property. You may come in person or call us at (415) 558-6377.

The last page of this guide is a questionnaire. We hope you will fill it out and return it to us so we can improve our efforts to serve you.

What is the City Planning Code?

The Planning Code is the City's official set of written **zoning** regulations. It is an ordinance (i.e., a law) which is used and enforced by the Department of City Planning.

> ***Zoning*** regulates how land is used and developed, generally by governing
> - ***where*** different uses can be located and
> - the ***size*** and ***shape*** of new and altered buildings.

The Code is divided into a series of ***Articles***, each of which covers specific zoning areas (such as Neighborhood Commercial Districts) or zoning topics (such as parking).

The Code can be phone- or mail-ordered from the Book Publishing Company (1-800-537-7881; 201 Westlake Avenue North, Seattle, WA 98109) or purchased at Stacey's Bookstore (581 Market Street, SF), America's Legal and Professional Bookstore (360 Golden Gate Ave., SF) and Builders' Booksource (300 De Haro Street, SF and 1817 Fourth St., Berkeley). It is also available for use at the Zoning Information Counter, City Hall Law Library and Documents Department at the Main Library.

Why do we have zoning?

Zoning is intended to guide the arrangement of the physical aspects of our built environment in ways that benefit our community. Virtually every large city in the country is regulated by zoning. In San Francisco, zoning finds its origins in the 1898 City Charter which included a provision preventing slaughterhouses from locating near residential buildings. Today, San Francisco's zoning attempts to respond to and benefit the many competing interests of a largely built-out, densely populated and economically, socially and culturally sophisticated urban area.

How does zoning work?

The City is divided into over sixty zoning districts, all of which are shown in the City's official set of Zoning Maps (also available for purchase and use as described above). Each property in the City falls into one or more of these zoning districts, and each zoning district has its own set of rules. ***About twenty of the districts fall under the broad description of Neighborhood Commercial (NC) Districts.***

There are many different categories of zoning rules. The most common categories that apply in Neighborhood Commercial Districts are listed and explained below. Each explanation is followed by a list of the **primary** Code Sections that deal with the category. (The Zoning Information Counter has a summary sheet of all the NC rules.)

*There is an **INDEX** at the back of volume II of the Planning Code which should help you find these categories and the rules that apply to your property and/or project. We are in the process of updating the index to make it more useful.*

Land Use

Land use refers to the activities that take place on a lot. There are about 25 separate ***use categories*** in the portions of the Planning Code explaining Neighborhood Commercial Districts (NCDs). Examples run from small self-service restaurants to movie theaters to residential uses (ie., apartments, flats and houses).

Land ***use tables*** in the Code list all of the uses in the various districts. In the NCD tables (which are printed in ***Article 7*** of the Code),

P = a permitted use,
C = a conditional use (that is, approvable by the City Planning Commission after a public hearing),
(blank space) = a use that is not permitted,
= reference to a special regulation found at the end of the table.

NC-2 Zoning Control Table

Zoning Category	Controls by Story		
	1st	2nd	3rd+
Bar	P		
Medical Service	P	P	
Auto Gas Station	C		

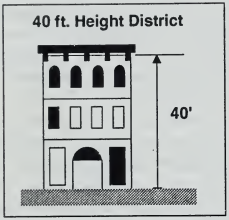
Each use is either permitted, requires conditional use or is not permitted on ***each floor*** of any building in each district. For example, in the chart above, in an NC-2 zoning district, a bar would be permitted on the first floor or below, a medical service would be permitted on the second floor and below, and an automotive gas station would be allowed at the ground story by conditional use approval.

To find out which use table you need to look at, go to the Code index and look up the zoning district and the subheading "regulations generally" (for example, "NC-2, regulations generally...711.1"). The table following the regulation description contains all of the district rules. Some uses can also be considered "temporary" or "accessory" to another use (see especially Section 703.2).

To find out whether the ***existing use on the property*** conforms to official City records, you can order a ***building permit history*** and **Certificates of Final Completion (CFCs)** from the Bureau of Building Inspection (Room 305 at 450 McAllister Street).

Height

Height refers to the distance a building rises from the ground. Each property is in a height district. The height district and the rules for measuring height determine the maximum height permitted. For instance, a building on a flat lot in a 40-foot height district cannot be higher than 40 feet. In all height districts there are certain ***exemptions*** (such as parapets, chimneys, enclosures for mechanical equipment, elevator and stair enclosures and skylights) which are allowed above the height limits. (See especially Code Sections 102.12, 250-252, 253.1 and 260-261.)

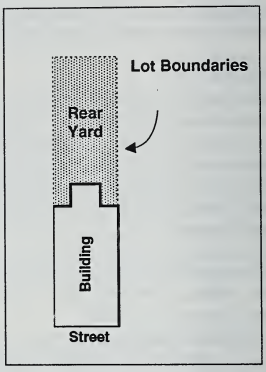


Parking

Parking refers to the number of parking spaces (and space dimensions) required on the property. The required parking is determined by the use on the property, and in some cases by the zoning district and the amount of space occupied by the use. Another important parking rule is that once required parking is provided, you cannot take it away unless you have been granted a variance (in some cases) or a conditional use (in other cases). (See especially Code Sections 150-151, 153-157, 159-161 and 204.5.)

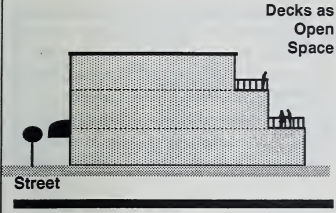
Rear Yard Setback or Rear Yard

Rear yard setback, or simply rear yard, refers to the area, usually in the back of a lot (i.e., the back yard), where you cannot build any structures. In some districts the rear yard is required to be kept open on upper stories but not at the ground level; in other districts the rear yard must be kept open at every story. In all districts there are certain exceptions called ***"permitted obstructions"*** (such as fences) which may be built in parts of the rear yard.(See especially Code Sections 130, 134 and 136.)



Usable Open Space

Usable open space refers to the area on a lot that is required to be kept open for outdoor use. Open space is required for each housing unit in every Neighborhood Commercial District. While ***usable open space*** may be provided in the ***rear yard***, these are two separate requirements. Open space may be provided in rear yards, front yards, in courtyards, balconies, decks and/or on the roof. (See especially Code Sections 135-135.3 and 136.)



Density

In Neighborhood Commercial Districts, density refers to the maximum number of residential units (or bedrooms when discussing group housing) permitted on a property. (A residential unit--or dwelling unit--is a living space which includes a kitchen.) For instance, the density in an NC-2 zoning district is 1 unit for each 800 square feet of lot area. This would mean that you could develop three units on a lot of 2500 square feet. (2500 divided by 800 equals three and one-eighth. Fractions under ½ are rounded down in NC districts; fractions of ½ or more are rounded up in NC districts). (See especially Code Sections 207, 207.1, 207.4 and 208.)

FAR (Floor Area Ratio)

Floor area ratio (FAR) refers to the relationship between the area of a lot and the total amount of floor area devoted to nonresidential use within buildings on the lot. (Outside NC districts, residential uses are sometimes included in the FAR.) An FAR of 2:1 on a 2500 square-foot lot means that you could build up to 5000 square feet (2 x 2500) of floor area. (See especially Code Sections 102.11, 123, 124 and 127.)

Priority Policies

Priority policies refers to a voter initiative passed in 1986 (Proposition M, now Code Section 101.1) which requires that many applications be reviewed in the context of eight citywide priority policies. The policies are intended to preserve and enhance San Francisco's character, housing, businesses and services. In summary, the policies are:

1) to enhance neighborhood-serving retail uses,
2) to protect neighborhood character,
3) to increase the supply of affordable housing,
4) to protect Muni transit service and neighborhood streets and parking from commuter traffic,
5) to protect industrial and service jobs from displacement by office development,
6) to prepare for earthquakes to the greatest extent possible,
7) to preserve landmarks and historic buildings, and
8) to protect parks and open space and their access to views and sunlight.

The City Master Plan

The City has a Master Plan, which is required by state law, to guide future development. The Master Plan consists of broad policy statements which are implemented through the more specific zoning regulations in the City Planning Code and other programs. All proposals are evaluated for conformance with Master Plan policies.

Design Review, Modification of Front Facades and Landscaping

There are Urban Design Guidelines for NC Districts in the Commerce and Industry Element of the City's Master Plan. The exterior design of buildings is reviewed by planning staff for compliance with the Master Plan and Priority Policies (Section 101.1 of the Code; see above). Landmarks or other architecturally or historically significant buildings require review by the Landmarks Preservation Advisory Board. Some proposals also require that street trees be planted in front of the property and that facades be designed to complement the prevailing character of neighboring buildings. Proposals in the Union Street Neighborhood Commercial District are referred to the Union Street Merchants Association for their review. (See especially Code Sections 101.1, 143 and 145.1.)

Demolition and Conversion

Demolition refers to the dismantling of an existing structure. Conversion refers to a change in use. In Neighborhood Commercial Districts, the demolition and conversion of residential units are regulated. For instance, as shown in the following table, in the Sacramento Street Neighborhood Commercial District, the conversion of a residential unit is permitted on the first floor and below and is not permitted on the second floor or above. If you want to demolish a housing unit which is located on the first (ground) floor or in the basement, it is permitted. If the housing unit is located on the second floor or above, the demolition requires conditional use approval. Other regulations exist for the proposed demolition of architecturally and historically significant properties. (See especially subsections .38 and .39 of each of the Article 7 tables as well as Code Sections 101.1 and 1006.)

Sacramento Street NCD Zoning Control Table

Zoning Control	Controls by Story		
	1st	2nd	3rd+
Residential Conversion	P		
Residential Demolition	P	C	C

Lot Size

Lot size refers to the area of the lot. New lots have to meet minimum standards for area and width. Also, development of large lots in most Neighborhood Commercial zoning districts requires conditional use approval. (See especially Section 121 and 121.1.)

Use Size

Use size refers to the area occupied by a nonresidential use. Development of large use sizes requires conditional use approval in most Neighborhood Commercial zoning districts. (See especially Section 121.2.)

Nonconforming Uses and Nonconcomplying Structures

A nonconforming use is a land use that was permitted by all codes in effect at the time the use was established, but would not be permitted today. For instance, a brewery was established on a property in 1910, before there were any zoning controls. It has been in continuous operation from 1910 to the present. Under today's zoning rules, the property is zoned NC-3, which does not permit industrial uses (such as breweries). Therefore, the brewery is classified as a nonconforming use. In some zoning districts, nonconforming uses are given termination

dates, after which time the nonconforming use must be replaced with a conforming (i.e., permitted or conditional) use. In Neighborhood Commercial Districts, nonconforming uses can continue to operate indefinitely. While in most zoning districts a nonconforming use cannot be expanded, in NC districts some nonconforming uses can be expanded with conditional use approval.

A noncomplying structure is a structure that was built in a way that was permitted under all codes in effect at the time, but would not be permitted today. For example, a one-story commercial building covering an entire lot was built in 1910, before there were any zoning controls. Today, this property is zoned NC-1, where buildings can cover only 75% of the lot. The existing building would be called a noncomplying structure because it covers the entire lot, leaving no open rear yard. The noncomplying portions of structures cannot be enlarged.

If noncomplying structures or noncomplying uses are destroyed by an Act of God, they can be rebuilt and reestablished. If they are demolished or abandoned voluntarily by the owner or tenant they can only be rebuilt and reused in ways which conform with today's zoning rules. (See especially Code Sections 180-183, 186.1, 186.2, 187 and 188.)

Landmarks and Historic Districts

Certain buildings which are architecturally and/or historically significant have been designated as ***landmarks****. Similarly, certain parts of some neighborhoods in the City have been designated as* ***historic districts****.* When changes are proposed to the exterior of landmarks or buildings in historic districts, the proposals must be reviewed by the **Landmarks Preservation Advisory Board**. The Landmarks Board sometimes also reviews proposed changes to buildings which have not been formally designated but which have been identified as being architecturally or historically important. (See especially Article 10.)

Signs and Awnings

The size, location and lighting of signs, awnings, canopies and marquees are regulated in Neighborhood Commercial Districts. These regulations are intended to promote signs, awnings, etc. which do not over-whelm the small-scale nature of NCD buildings, which do not infringe on the residential portions of NCD bldgs., and which are well-designed. All of these features require permits. (See especially Section 136.1, 604 and 607.1.)

How do I find out what zoning rules apply?

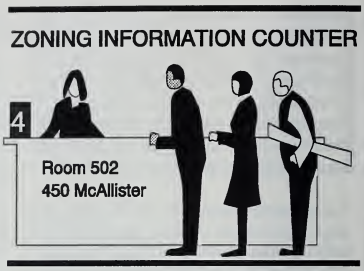
Typically, there are two ways to begin. One is for people who already have a particular property in mind. The other applies to people who have a specific use in mind (for instance, a new business or an apartment), but haven't chosen a location.

When you already have a property in mind:

Call or visit the ***Zoning Information Counter*** with the property's address or Assessor's Block and Lot number(s) and ask

- what the ***zoning district*** for this property is,
- what the ***lot size*** is,

- what the ***height and bulk district*** for this property is,
- whether the property is designated as ***historically or architecturally significant***,
- whether or not any site-specific, ***special regulations*** apply and
- whether or not the property has any recorded planning or building ***code violations.***



Next you can use the Planning Code to find out what rules apply to your zoning district. Generally, these rules apply to what you want to do with the property and not with what has been legally developed on the property in the past.

To find out what rules apply in your zoning district:

Ask at the Zoning InformationCounter or go to the Code **INDEX** at the back of Volume II:

- First look up the zoning district.
- Under the district name, look up the subheading "regulations generally." This will direct you to the appropriate use table.
- Go to the use table and look down the columns to see which uses are permitted (denoted by a "P"), which are not permitted (denoted by a blank space) and which require conditional use authorization (denoted by a "C").

With this information you can narrow down your choice of uses. (All uses are defined in sections 790-790.140.)

* You may also be planning to change the shape or look of your building or construct a new building on the lot. If you are, you should go back to the index. Look up each of the zoning categories listed earlier (height, parking, rear yard, density, FAR, etc.) to find out which have requirements in your zoning district (see examples at the end of this section). Note that the list of zoning categories as presented here is incomplete. Ask the Zoning Information Counter staff what other rules might apply to your district and proposal.

When you have a specific use in mind (such as a new restaurant) but have not chosen a location:

Call or visit the ***Zoning Information Counter*** and

- *explain* what you would like to do and
- *ask* what districts would permit that use.

- Next you can look through the Zoning Maps to find out where those districts are.
- Once you narrow down your choices for a location, you can ask the questions listed above to find out what rules would apply.

***EXAMPLE 1:** You have a vacant lot and want to know what you can build there.*

You have a vacant lot at 3197 Geary Boulevard. The Zoning Information Counter tells you the lot is *zoned* NC-3, that the *height* district is 40 feet, that the lot size is 5000 square feet, that there are no *planning or building code violations or special restrictions or regulations listed for the property.*

You then go to the Code index and look up the heading "NC-3 District" and subheading "Regulations generally." Here the index tells you to turn to Section 712.1. This Section describes the purpose of the NC-3 district and is followed by the district use table.

NC-3 ZONING CONTROL TABLE			
Zoning Control	Controls by Story		
	1st	2nd	3rd+
Other Retail Sales & Service	P	P	P
Bars	P	P	
Business or Prof. Service	P	P	P
Residential Use	P	P	P
Medical Service	P	P	P

Uses are listed along with other zoning categories in the column on the left. Looking down this column you see, for instance, that bars are permitted on the first and second floors. Offices, retail sales and residential units are permitted on all floors. If you are unsure what any of the uses or zoning categories mean, look them up in the definition section which begins with Section 790.

Based on this information, you decide you would like to build a three-story buiding with parking and a small bar on the ground floor, offices on the second floor and two residential units on the third floor.

All of the development standards that will apply to your proposal are listed in the same table: lot size, rear yard, street frontage, FAR, use size, off-street parking and street trees. The column labled "references" directs you to other code sections which further explain the rules.

To find out where you can build on the lot and how large the building can be, look in the columns to the right of each of the zoning catagories. For example, the NC-3 table shows that a rear yard would be required at residential levels only, that is, in this case at the third floor level. The table also refers you to Code Section 134 which states that the rear yard should be 25% of the lot depth. According to the table, you will also need one off-street parking space and 80 square feet of usable open space for each of the residential units. It is always smart to double-check your understanding of the rules with the Zoning Information Counter staff and ask if there are any new rules such as "interim zoning controls" which may apply in addition to the printed Code rules.

EXAMPLE 2: ***You have an existing building and want to know if you can change the use.***

You own a three-story building at 2159 Irving Street. The ground floor is a parking garage for two cars and there are two apartments above, one on the second floor and one on the third floor. You want to know if you can replace the garage with a commercial use, such as a restaurant.

The Zoning Counter tells you the property is zoned NC-2, is in a 40-foot height district, is a designated landmark, that the property is in the Irving Street Restaurant and Fast Food Subdistrict, and that there are no planning or building code violations listed.

You open the Code to the index and look up the heading "NC-2" and "regulations generally." This refers you to Code Section 711.1. Looking down the use column in the table you see many different types of commercial uses are permitted in the district. The Subdistrict rules at the end of the table tell you that full-service and large fast-food restaurants are not permitted. In addition to proposing a new use, you are proposing to take away an existing use -- i.e., the parking. Looking down the use column, you find "off-street parking, residential." The adjacent column tells you that one parking space is required for each dwelling unit (i.e., apartment in this case). Another column refers you to other Code Sections which discuss parking requirements. One of these (Section 150) clarifies that once a parking space that the Code requires is provided, it must be retained. In other words, the two parking spaces in the garage are required by the Code to serve the two dwelling units. Since these spaces are there now, you have to keep them.

Therefore, you could put in a permitted commercial use on the ground floor, but only if the two parking spaces can also be kept or you are granted a variance or conditional use for a parking exception.

The Zoning Information Counter staff tells you if you propose to change the exterior of a landmark, you will need a "Certificate of Appropriateness" from the Landmarks Preservation Advisory Board. They direct you to Code Sections 1006-1006.8 which explain this process.

EXAMPLE 3: ***You want to know where you can open a flower shop in the City.***

It is sometimes easier to simply ask Zoning Counter staff what zoning districts permit the use you propose rather than going to the index.

Carefully read through the use tables for each of these districts to see if the use is restricted to certain floors of a building. For instance, in RC and some NC, South of Market and Chinatown districts a retail/commercial use is only permitted on lower stories.

Next ask to look through the Zoning Maps to find where these zoning districts are located. Then you can begin to look on your own or with the help of a broker or leasing agent for a property in one of these districts.

After you locate some potential properties, come back to the Zoning Counter to double-check the zoning and other regulations that may be site specific (as described above under the heading "***if you already have a property in mind***").

If something I am planning to do is not permitted under the Planning Code, are there any alternatives?

Sometimes.

Many quantitative (that is, numerical) standards in the Planning Code (for instance, the size of a rear yard) are subject to a variance procedure. A ***variance*** is an exception to a quantitative rule a property owner may apply for if certain conditions are met. The rules for variances are in Code Section 305.

When a use is called a ***conditional use***, this means that the City Planning Commission holds a hearing to decide whether it would be permitted or not. When a use is not permitted, there are no exceptions. Only a change in the law could change the regulations in the Planning Code. The rules for conditional uses are in Code Section 303. (A **zoning map amendment** would change the zoning district or height or bulk district. A **zoning text amendment** would change the written regulation in the Planning Code.) Any zoning amendments have to be approved by both the City Planning Commission and Board of Supervisors.

Applications for these exceptions and procedures are available at the Zoning Counter.

If something I am planning to do is permitted under the Planning Code, am I assured of approval by the City?

No. Under the City Charter, any person or agency may request that any permit application (except for signs) reviewed by the Planning Department be considered by the City Planning Commission for a public hearing. This request is known as ***Discretionary Review (DR).*** The Commission can grant the request for Discretionary Review or deny it. If they grant it, they then approve or disapprove the proposal. If they approve it, they can also attach "Conditions of Approval". Typical reasons for disapproval include "quality of life" issues, such as neighborhood character, which is one of the priority policies explained on page 6. Also, after City Planning approval, every proposal has to meet the requirements of all other applicable Codes, such as the Building Code and Fire Code. Every permit and licence issued by the City can also be appealed to the Board of Permit Appeals within 15 days of the date the permit or license is issued. The Board can uphold the permit or rescind it.

Are there any other regulations the Planning Department implements?

Yes. The Office of Environmental Review within the Planning Department conducts environmental evaluations as required by the California Environmental Quality Act (CEQA). These evaluations generally result in the issuance of an ***exemption***, a ***negative declaration*** or ***environmental impact report (EIR)***. Small projects, such as the construction of a small commercial building, are exempt. Rules governing CEQA reviews are set out in this state law itself and

in Chapter 31 of the City's Administrative Code (not the Planning Code).

What is a Planning Code violation and how does it affect any development proposals I might have?

Every property in the City must conform to **every** requirement in the Planning Code. Any requirement that is not met is a **violation**. Violations that have been identified by the City are recorded on a list kept jointly by the Bureau of Building Inspection and the Department of City Planning. (There are also some complaints on this list which have not been verified.) To find out if your property or a property you are interested in buying or leasing is on this list, you can ask the Zoning Information Counter staff. If the property is listed, there will be some indication of what the violation is (for instance, an illegal unit). If it is not listed, this does not guarantee the property is violation-free. It only indicates the City has not identified a violation there in the past. Another indicator of legality is a building permit history which consists of a listing of all permits filed for the property since 1906.

If the property is listed as having a violation, no permit applications for the property can be issued until the violation is cleared. Identified violations are also subject to legal action by the City Attorney. Typically, the way to clear a violation is to file a permit application to remove the violation and replace it with a legal use or feature. Once the permit has been issued and the work has been completed and inspected, the City will remove the property from its violation list.

Once I determine what the Planning Code rules are, where do I go from from there?

First, determine what types of reviews, approvals, permits and/or licenses you would need for your project. If you are doing construction work (even some small interior renovations such as relocating a sink), you would probably need a

- ***building permit*** and perhaps a
- ***plumbing and/or electrical permit***. Check with the Bureau of Building Inspection (BBI) if you are not sure.

  BBI will determine what other departments (such as City Planning) need to review your building permit application.

  If you are opening a business (including taking over an existing business from someone else) you may need a

- ***business license*** from the Business License Bureau in City Hall (554-6454);
- ***health permit*** if the business involves food or pet handling (call or visit the Health Department at 101 Grove Street, 554-2770);
- ***police permit*** if the business involves entertainment, massage or vehicle towing (call or visit the Police Permit Bureau at 1 Jones St., 557-6800); and\or a
- ***fire permit*** if the business involves public assembly or parking (call or visit the Fire Department Permit Bureau, 260 Golden Gate Ave., 861-8000, ext. 310).

San Francisco Department of City Planning

Evaluation and Questionnaire:
How to Use the City Planning Code for Zoning Questions About Properties in Neighborhood Commercial (NC) Districts

This guide on "How to Use the City Planning Code" is the first in a series of products we will be making available as part of the Planning Department's RECODE project – an effort to make the Planning Code more understandable and user-friendly. Another product we are working on is a more comprehensive index.

We would like your ideas to improve this guide and generally in making the Code more accessible and understandable. Please be as specific as possible in filling out this questionnaire and feel free to attach any additional suggestions and ideas on separate sheets. We value your comments and appreciate your help.

Please return the survey to the Zoning Information Counter (Room 502, 450 McAllister Street, mail it to RECODE, Department of City Planning, 450 McAllister St., Room 604, San Francisco, CA 94102 or FAX it to RECODE at 558-6409 by May 30. If you have any questions about the guide, questionnaire or RECODE project, please call Inge Horton at 558-6279 or Mary Gallagher at 558-6388.

1. Did the guide help you understand zoning? Yes No *(if not, why not)*

2. Did the guide help you find the Code information you needed? Yes No *(if not, why not)*

3. Which parts of the guide were the most helpful to you?

4. How could this guide be improved?

5. We are in the process of updating the **Code index** to make it more useful. What terms do you think should be included in the index?

6. Do you have any other suggestions for the RECODE project?

Optional information:

Name:

Address:

City:

Phone:

Are you involved in planning and zoning as:

Architect/Designer/Engineer

Developer/Builder

Member of a Neighborhood Group

Realtor/Broker

Appraiser

Lawyer

Property Owner

Other *(please specify)*

How to Use the City Planning Code

Guide to Permit Application and Review Procedures in Neighborhood Commercial Districts

RECODE PROJECT San Francisco Department of City Planning April 1992

As part of our effort to communicate better with the public and make permit review understandable, the Planning Department has prepared this guide to show the basic steps involved in reviewing applications. Only the most frequently used procedures are presented in this simplified version. Other procedures which are not described here are listed at the end of this guide.

The last page of this guide is a questionnaire. We hope you will fill it out and return it to us so we can improve our efforts to serve you.

CASE 1

Building Permit Application not requiring City Planning review.

Examples:

- *Remodeling the interior of a store without changing the type of business occupying the store.*
- *Installation of an exhaust fan in an existing store.*

Step 1: The applicant requests information at the Information Counter of the Bureau of Building Inspection and Zoning Information Counter.

Step 2: The applicant files the application and all required material and a fee at Central Permit Bureau. The application is reviewed by the Bureau of Building Inspection and other City Agencies, as necessary.

Step 3: The Bureau of Building Inspection issues the permit, disapproves or cancels the application. In case of a dispute about a Building Code regulation, the applicant can ask for a ruling from the Board of Examiners.

Step 4: Any person can appeal the permit or disapproved application to the Board of Permit Appeals within 15 days of the action.

CASE 2

Building Permit Application requiring City Planning review but no special City Planning permit.

Examples:

- *New business sign for a store in a Neighborhood Commercial District.*
- *Construction of a mixed-use building with a store of less than 4000 s.f. and a dwelling unit with one off-street parking space on a small lot in an NC-2 district.*

Step 1: The applicant requests information at the information counter of the Bureau of Building Inspection and Zoning Information Counter.

Step 2: The applicant files the application including all required material and a fee at the Central Permit Bureau. The application is routed for review to the Planning Department.

Step 3: The Planning Department determines the zoning, special conditions as applicable, and completeness of application, and reviews the application for code compliance including design review. The planner may request revisions of the project or additional information if necessary.

Step 4: The Planning Department approves or disapproves the application.

Step 5: The Planning Department routes the permit to other City agencies for review.

Step 6: The Bureau of Building Inspection issues the permit, disapproves or cancels the application.

Step 7: Any person can appeal the building permit or disapproved application to the Board of Permit Appeals within 15 days of the action.

CASE 3

Conditional Use

Certain types of uses are only permitted with a conditional use authorization by the Planning Commission after a public hearing has been held. Section 303 explains the purposes, procedures and criteria for conditional uses. Additional criteria for conditional use authorization are found in other sections of the Planning Code and in the Master Plan. A conditional use application packet is available at the Zoning Information Counter.

Examples:

- *Remodeling of a store into a fast-food restaurant in a Neighborhood Commercial District.*
- *In a proposed new mixed-use building, the applicant wants to build a store on the ground floor and therefor cannot provide the required off-street parking spaces on the ground floor. Section 161(j) provides a procedure for applying for reduction of the required residential parking with a conditional use if certain conditions are met.*
- *Building a small hotel in a Neighborhood Commercial District.*

An approved building permit is necessary to build the proposed project. The applicant may apply for conditional use before or after applying for the building permit. However, the building permit cannot be approved until the conditional use is authorized.

Step 1: The applicant requests information at the Zoning Information Counter. For large projects, the applicant is advised to set up a design review meeting to discuss the preliminary plans with staff who will be involved in the review of the project.

Step 2: The applicant files a conditional use application including all required material and a fee at the Planning Department.

Step 3: After receipt of a conditional use application, staff researches the case and develops a preliminary evaluation.

A. If the proposed use or feature is consistent with the criteria listed in Code Section 303(c) and the Guidelines in the Master Plan (Commerce and Industry Element, Objective 2 for Neighborhood Commercial Districts), the item will be scheduled for the consent calendar of the Planning Commission. Twenty days prior to the date of the Planning Commission hearing, the property is posted and a newspaper notice is published. Twenty days prior to the hearing, mailed notices are sent to all property owners within a 300 foot radius of the subject property. One week prior to the hearing, the Planning Department sends a case report and draft motion to the City Planning Commission and makes them publicly available. The applicant, a commissioner or ten property owners or tenants located within the 300 foot notification area can request that the item be removed from the calendar and a full hearing be scheduled.

B. In most cases, the project does not qualify for the consent calendar. Staff sets a date for a public hearing before the City Planning Commission. Notification procedures are the same as described under A.

Step 4: The City Planning Commission holds one or several public hearings and approves with conditions or disapproves the request for conditional use authorization.

Step 5: The Commission's action may be appealed within 30 days to the Board of Supervisors. An appeal must be signed by persons owning 20% of all properties within 300 feet of the subject property.

Step 6: If no appeal is received, building permit applications relating to the specific authorization can be approved by City Planning within three years from the date of approval (unless the conditions include a different time limitation). Subsequently, the Planning Department routes the permit application(s) to other City agencies for review.

Step 7: The Bureau of Building Inspection issues the building permit(s) or disapproves or cancels the application(s).

Step 8: Any person can appeal the building permit or disapproved application to Board of Permit Appeals within 15 days of the date of action of the Bureau of Building Inspection.

Other procedures which are not described in this guide, include but are not limited to

- Environmental Evaluation (California Environmental Quality Act and San Francisco Administrative Code Chapter 31)
- Planned Unit Development (Planning Code Sec. 304)
- Certificate of Appropriateness (Planning Code Sec. 1006)
- Amendment to the Zoning Map (Reclassification) (Planning Code Sec. 302)
- Amendment to the Planning Code Text (Planning Code Sec. 302)
- Coastal Zone Permit (Planning Code Sec. 330-330.16)
- Shadow Analysis (Planning Code Sec. 295)
- Review of Downtown Permits (Planning Code Sec. 309)
- Annual Limit of Office Development (Planning Code Sec. 320-325)
- Transfer of Development Rights (Planning Code Sec. 128)

For the precise text of the legislation of the above mentioned procedures and those described in more detail above please refer to applicable Code sections or inquire at the Zoning Information Counter. For most of these procedures, brochures are available.

San Francisco Department of City Planning

Evaluation and Questionnaire:
Guide to Permit Prodedures in Neighborhood Commercial (NC) Districts

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Appraiser

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Property Owner

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